

Message

From: Wetherington, Michele [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=72F68AFD3CA140CFB8E6B77A0DE014F5-WETHERINGTON, MICHELE]
Sent: 8/26/2021 5:51:03 PM
To: Shahid, Mary D. [MShahid@nexsenpruet.com]
CC: H.E Brown [hbrown53@gmail.com]
Subject: RE: Pine Hope, LLC AOC [IWOV-NPCHAR1.FID1058209]

Hi Mary,

I appreciate your quick review and will respond to your questions.

Paragraph 31 is part of the AOC standard language that is changed in very rare circumstances. One purpose of the language is to comport with EPA's general process of issuing a penalty following the AOC agreement. In this case, EPA is exercising its enforcement discretion and does not plan to issue a penalty.

And this paragraph is also used to allow EPA to enforce the AOC should compliance with it not occur. To the extent this AOC is complied with, and then terminated per paragraph 34, then yes the AOC is closed and EPA would not be seeking enforcement to get compliance with the AOC.

Finally, the heading for the facts section is purposefully titled "**EPA's** Findings of fact and determinations of law" in response to repeated requests by Respondents to make the point that the findings are not necessarily representative of their view point and only represent EPA's findings. With the heading specifying EPA only, and this change made to our model AOC as you received it, we don't need to add in the footnote.

Please let me know if you have any more questions or concerns. Otherwise I will look for the signed AOC soon.

Thanks,

Michele

Michele Wetherington
Office of Regional Counsel
US EPA, Region 4
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Wetherington.michele@epa.gov

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From: Shahid, Mary D. <MShahid@nexsenpruet.com>
Sent: Tuesday, August 24, 2021 1:37 PM
To: Wetherington, Michele <Wetherington.Michele@epa.gov>
Cc: Young, Angela <Young.Angela@epa.gov>; **Ex. 6 Personal Privacy (PP)**
Subject: RE: Pine Hope, LLC AOC [IWOV-NPCHAR1.FID1058209]

Michele: Mr. Brown and I have a couple of questions and a request. First, Paragraph 31 allows EPA an opportunity to pursue enforcement against Mr. Brown despite the AOC. "... shall not be deemed an election by EPA to forego any Administrative, Civil, or Criminal action ... for the violations set forth in the findings." Is this language necessary? We would want to believe that this matter ends with documentation of compliance with the Consent Order.

Second, Paragraph 34 refers to termination. Does that mean that the Consent Order doesn't exist once we document compliance? If so, does that eliminate our concern about Paragraph 31 since the effect of that Paragraph could be short-lived.

Finally – We would like to include the following as a footnote to Paragraph 18: *“Respondent’s position throughout this investigation is that his activities on Pine Hope Plantation were covered by the CWA’s silviculture exemption.”*

Thank you Michelle – happy to discuss any of this at your convenience.

Mary D. Shahid

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From: Wetherington, Michele <Wetherington.Michele@epa.gov>
Sent: Monday, August 23, 2021 3:57 PM
To: Shahid, Mary D. <MShahid@nexsenpruet.com>
Cc: Young, Angela <Young.Angela@epa.gov>
Subject: Pine Hope, LLC AOC
Importance: High

{EXTERNAL EMAIL}

Mary,

Attached, please see the cover letter and the proposed AOC for Mr. Brown's signature, with three Exhibits. Please let me know if you have any questions about the AOC.

Thanks,

Michele

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